

EXHIBIT 47

1 UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF MICHIGAN
3 SOUTHERN DIVISION
4 D.L.; K.S.F.; and K.B.,
by and through her parent
and next friend H.B.,
5 Plaintiffs, Case No. 22 cv 00838
vs. Hon. Robert J. Jonker
6 MICHIGAN DEPARTMENT OF
7 EDUCATION, Mag. Phillip J. Green
8 Defendant.
9
10 DEPOSITION OF H.B.
11 Taken by the Defendant at 251 N. Rose Street,
12 Suite 200, Kalamazoo, Michigan, on Friday, March 1,
13 2024, commencing at 10:05 a.m.
14 APPEARANCES:
15 For the Plaintiffs: MS. ELIZABETH K. ABDNOUR (P78203)
16 ABDNOUR WEIKER, LLP
17 500 E. Michigan Avenue
18 Suite 130
19 Lansing, Michigan 48912
20 517 994 1776
21 &
22 (via Zoom videoconference)
23 MS. JACQUELYN N. KMETZ (P83575)
24 MI AECRES
25 P.O. Box 705
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231 794 2379
(Appearances Continued on Page 2.)

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1 A. Correct.
2 Q. So given that math, it may be before 2012 when she
3 started kindergarten. But regardless, you don't
4 remember what year she started kindergarten, correct?
5 A. No.
6 Q. Where did she start sixth grade?
7 A. It was Hillside Middle School.
8 Q. Do you remember what year that was?
9 A. No, I do not. I am trying to think.
10 Q. Take your time.
11 A. I can't get the accurate dates on that. I am not sure.
12 Q. Did she complete all of sixth grade at Hillside Middle
13 School?
14 A. Did not.
15 Q. What happened in sixth grade?
16 A. Sixth grade she went to school for about two weeks, and
17 after that was kicked out and went to ALP.
18 Q. Was that the alternative learning program?
19 A. Uh huh (affirmative).
20 Q. Did she repeat sixth grade at the alternative learning
21 program, or did she just have one year of sixth grade?
22 A. No. She didn't repeat it. She did sixth, seventh and
23 eighth there.
24 Q. And she didn't repeat any grades at the alternative
25 learning program?

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1 just knew she wasn't learning like she was supposed to.
2 Q. When Ka B started at the alternative learning program do
3 you know why she was transferred to that program?
4 A. Behavior.
5 Q. Was there a specific type of behavior?
6 A. Disruptive.
7 Q. And what do you mean by that?
8 A. Disrupt the class, being class clown. Bad behavior.
9 Q. And what happened when she was placed at the Youth
10 Advancement Academy?
11 A. The same thing. Disruptive, bad behavior. Everybody
12 just got to the point where they cannot deal, so let's
13 try something different.
14 Q. Did you agree to those transfers?
15 A. Yes. It didn't keep her in school.
16 Q. Is Ka B currently attending school?
17 A. No.
18 Q. When is the last time she attended school?
19 A. I will say about, when Norrix kicked her out. I don't
20 know. When was that? About two years ago. She ain't
21 been in school in about two years, to me. That's how I
22 feel.
23 Q. Does November of 2022 sound accurate?
24 A. Probably so, yes. That was about the last time.
25 Q. And you said Norrix kicked her out?

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1 A. Yes.
2 Q. What do you mean by that?
3 A. They said she cannot return.
4 Q. Did they send you documentation of that?
5 A. I don't recall. They said she could not return. They
6 said turned her stuff over to Kalamazoo Valley. That's
7 all they told me they stated.
8 Q. Has she attended any classes at Kalamazoo Valley?
9 A. No.
10 Q. And why is she not attending any school right now?
11 A. She don't want to go to school. She said she will not
12 go to school if she have to go to a school like that.
13 Q. Is the Michigan Department of Education the reason that
14 Ka B is not in school?
15 MS. ABDNOUR: Objection. Calls for
16 speculation and calls for a legal conclusion. But you
17 can go ahead and answer if you can.
18 THE WITNESS: School is the reason why she
19 ain't in school.
20 BY MS. HALLORAN:
21 Q. But is the Michigan Department of Education the reason
22 she is not in school?
23 MS. ABDNOUR: Objection. Asked and answered.
24 MS. HALLORAN: Go ahead and answer, H.B.
25 THE WITNESS: Yes.

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1 MS. HALLORAN: Sure.
2 MS. ABDNOUR: So if you don't mind make sure
3 saying it on the record. So just from the, I am going
4 to say that this document has been marked as Exhibit 1.
5 BY MS. HALLORAN:
6 Q. So I can repeat my question, H.B. Do you know in
7 what year of school it was for Ka B in September 2019?
8 A. Had to be the ninth grade year.
9 Q. And who is the actual person who filled out this
10 Complaint form?
11 A. George White.
12 Q. And who is George?
13 A. My advocate.
14 Q. And when did you first reach out to George for
15 assistance?
16 A. George has been around helping me for a while, since the
17 beginning, like not just in high school, just since the
18 whole, telling him about them getting kicked out at the
19 ALP.
20 Q. So he has been involved since she was in sixth grade
21 would you say?
22 A. Uh-huh (affirmative).
23 Q. Remember, yes or no.
24 A. Yes.
25 Q. And did George recommend that a State Complaint be

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1 WAS MARKED BY THE REPORTER
2 FOR IDENTIFICATION.
3 BY MS. HALLORAN:
4 Q. H.B. I just handed you another form and it says
5 Request for a State Complaint Investigation, and it is
6 dated January 25th of '21. Do you remember filing a
7 State Complaint or a Request for a State Complaint
8 Investigation on that date?
9 A. Yes.
10 Q. And do you agree that that date is accurate, 1/25/21?
11 A. Yeah. Yes.
12 Q. And do you remember what year of school that was for
13 Ka B?
14 A. It had to be ninth grade.
15 Q. And the actual Complainant was George White, right?
16 A. Yes.
17 Q. Did you reach out to George at that time to file another
18 State Complaint or was it George's idea?
19 A. I reached out to him.
20 Q. I am going to turn your attention to Page 2. There are
21 allegations listed here against Kalamazoo that you
22 reported in your State Complaint. I am to read those
23 for you and we are going to go over each of them to make
24 sure they are accurate.
25 A. Okay.

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1 State's ALJs. Do you remember filing a Request for a
2 Due Process Hearing?
3 A. Yes.
4 Q. Do you remember about when you filed it?
5 A. No.
6 Q. Does February 11 of 2022 sound accurate?
7 A. Yes.
8 Q. Do you remember why you filed a Complaint and Request
9 for a Due Process Hearing?
10 A. No.
11 DEPOSITION EXHIBIT 10
12 WAS MARKED BY THE REPORTER
13 FOR IDENTIFICATION.
14 BY MS. HALLORAN:
15 Q. I am handing you what's marked Exhibit 11.
16 COURT REPORTER: That's Exhibit 10.
17 MS. HALLORAN: Strike that.
18 BY MS. HALLORAN:
19 Q. I am handing you what's marked Exhibit 10. This is an
20 Order of Dismissal from the Michigan Office of
21 Administrative Hearing & Rules that resulted from the
22 Hearing Request that we just went over in Exhibit 9. Do
23 you remember why the case was dismissed?
24 A. I am not sure.
25 Q. Do you know if you reached a settlement agreement with

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1 Kalamazoo Public Schools in that case?
2 A. Oh, yes.
3 Q. Do you remember what was agreed to in that settlement
4 agreement?
5 A. No.
6 Q. Do you remember if there was a written settlement
7 agreement?
8 A. I don't remember.
9 DEPOSITION EXHIBIT 11
10 WAS MARKED BY THE REPORTER
11 FOR IDENTIFICATION.
12 BY MS. HALLORAN:
13 Q. Miss Bush, I am handing you what's marked Exhibit 11,
14 it's a Request for a State Complaint Investigation.
15 It's dated October 26, 2022. Do you remember filing
16 another Request for a State Complaint Investigation on
17 that date?
18 A. I can't recall.
19 Q. If I read you the allegations would that help to trigger
20 your memory?
21 A. It probably would, yes.
22 Q. Turning to Page 2 of Exhibit 11, I am going to read to
23 you the Allegations.
24 It says 1. Loy Norrix MET team has made it
25 clear that they intend to transfer Ka B to Valley

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1 Center, a school for students with emotional or unique
2 behavioral needs.

3 2. Nowhere in the Valley Center description
4 does it describe Valley Center as a school for students
5 with cognitive impairment.

6 3. A specific request in 2021 for EGLCE
7 functional independence skills and reading was made to
8 MET members and they have not responded to the request
9 to this date.

10 4. MET members and the KPS board are
11 responsible for ensuring there is programming and
12 instruction available to meet the needs of the students
13 with cognitive disabilities.

14 5. It is the responsibility of the MDE to
15 make sure that all specialized or alternative school or
16 program meets the accreditation and core curriculum
17 standards.

18 6. It is about the responsibility of the KPS
19 board, MET members and the MDE to make sure that ALL
20 certified reading specialists meet the requirements in
21 each of the five major reading components listed in
22 subsection (3)(a)(iv)(B) of the Michigan Mandatory
23 Special Education Act and that instruction aligns with
24 the State core curriculum standards mandated by the
25 IDEA.

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1 Last, Ka B should not be moved to Valley
2 Center against her mother's wishes when KPS is not
3 following through with providing EGLCE independent
4 reading and math instruction.

5 Does that jog your memory about this State
6 Complaint?

7 A. Yes.

8 Q. So do you think that this was filed about October of
9 2022? Does that sound correct?

10 A. Yes, it does.

11 Q. But it was Mr. George White who signed this State
12 Complaint; is that right?

13 A. Yes.

14 Q. And those allegations when I read them to you, did those
15 sound accurate?

16 A. Yes, they did.

17 Q. So at the time that you filed this State Complaint was
18 there anything that you felt like Kalamazoo Public
19 Schools should be doing to address all of your concerns
20 that were in those allegations in the Complaint?

21 A. No. I didn't feel like once they kicked her out it
22 wasn't nothing of that. I didn't agree to that, so
23 Kalamazoo Valley is nothing where she was going to go.
24 So what was I supposed to do once they gave up? You
25 know what I am saying? That's when my daughter quit

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1 school totally.

2 Q. So do you feel like you gave up after?

3 A. Did I give up.

4 Q. Yes.

5 A. Oh, yeah. Wasn't nothing else. I mean I am still
6 fighting as well, but I can't force her to go to
7 Kalamazoo Valley. That wasn't going to happen.

8 Q. So is it fair to say that you didn't feel like KPS could
9 do anything to remedy your allegations in the Complaint
10 then?

11 A. They should have been, but they didn't.

12 Q. What do you think they should have done to remedy your
13 allegations in the Complaint?

14 A. I don't know. Maybe have another meeting and come up
15 with something else. Because kicking her out of general
16 education setting wasn't a great idea. Now she is a
17 dropout

18 DEPOSITION EXHIBIT 12
19 WAS MARKED BY THE REPORTER
20 FOR IDENTIFICATION.

21 BY MS. HALLORAN:

22 Q. **H.B.** I am handing you what's been marked as
23 Exhibit 12. This is a Complaint Decision dated
24 December 21st of 2022. Do you remember receiving this
25 Complaint Decision?

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1 A. I do not. If you read it might remember.

2 Q. Sure. I will read you the Complaint issues and see if
3 this triggers your memory.

4 So the first issue listed in the Complaint is
5 a whether the District provided the student a FAPE.
6 Specifically, whether the IEP was developed to provide
7 the student with special education programs and services
8 in the least restrictive environment. And I can read
9 you the decision to see if that triggers your memory as
10 well.

11 So the Decision on Page 12 reads the District
12 and the development of the IEP to provide the student
13 with special education programming and services in the
14 least restrictive environment. MDE determines no
15 violation.

16 Do you remember receiving --

17 A. I don't.

18 Q. -- this Complaint Decision? Your answer is no, you
19 don't remember?

20 A. No.

21 Q. I am going to read you the Complaint issues again to see
22 if you agree that -- well, I will read you Complaint
23 Issues then I will ask the question.

24 So the Complaint Issue was whether the
25 District provided the student a FAPE. Specifically,

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1 whether the IEP was developed to provide the student
2 with special education programs and services in the
3 least restrictive environment.
4 Does that issue summarize all the allegations
5 we just went through in the prior exhibit, Exhibit 11 in
6 your State Complaint?
7 A. Yes.
8 MS. ABDNOUR: I am going to just say that the
9 document speaks for itself.
10 BY MS. HALLORAN:
11 Q. And MDE made some Findings of Fact, and I am going to
12 kind of go through those and see if you agree or
13 disagree.
14 As of the filing of the Complaint, student was
15 a 16-year-old tenth grader who was eligible for special
16 education and related services as a student with an
17 other, other health impairment.
18 Do you think that that finding was correct?
19 A. Correct.
20 Q. An IEP was in place at the start of the investigation
21 timeline dated September 28th, 2021.
22 Do you agree that there was an IEP in place
23 dated September 28th, 2021 or do you not know?
24 A. I am not sure if that's the correct date.
25 Q. There was a Finding of Fact that a behavior plan with a

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1 modification date of October 28th, 2021 included the
2 following relevant information. And it lists
3 information from a behavioral plan was in place.
4 Do you agree with that Finding of Fact, that
5 there was a behavioral health plan in place for Ka B?
6 A. I agree.
7 Q. An IEP dated April 6, 2022 indicated the following
8 relevant changes and additions from the previous IEP. I
9 guess I will ask you, do you know if there was an IEP
10 dated April 6, 2022?
11 A. No, I don't know. I feel like she wasn't in school
12 then.
13 Q. MDE in this document made a finding that during
14 interviews the parent indicated attending the meeting
15 October 25th, 2022, and providing input regarding moving
16 to the different school. The District suggested that
17 the parent visit the different school. The parent
18 indicated not visiting the different school, as the
19 parent knew about the school from working in the
20 District for years. When asked what the parent's
21 concerns were with the different school, the parent
22 indicated getting the student to agree with the
23 different school. The parent had no problem with the
24 different school. If the different school could give
25 student an education the parent was okay with that.

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1 The Complaint indicated concerns at the
2 different school with academics.
3 Do you disagree with that Finding of Fact?
4 A. I agree.
5 Q. There is also a Finding of Fact, number 10, part iii.
6 During the 2022-2023 school year by October 25th, 2022
7 the student was absent for 130 class periods.
8 Do you agree with that?
9 A. Yes.
10 Q. Prior to the change in placement the student was
11 verbally and physically aggressive which led to behavior
12 referrals and suspensions.
13 Do you agree with that?
14 A. Yes.
15 Q. The student exhibited behaviors that included verbal
16 confrontation, explicit language, swearing, and threats
17 of students, staff, and staff family members.
18 Do you agree with that?
19 A. Yes.
20 Q. What was that?
21 A. Yes.
22 Q. When entering and leaving class the student used more
23 explicit language and was loud, aggressive, swearing,
24 and using an inappropriate tone.
25 Do you agree with that?

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1 A. Yes.
2 Q. The student threw a water bottle at the case manager,
3 and during the 2022-2023 school year, joined in a fight
4 that the student was not originally involved in, where
5 the student punched another student on the floor after
6 the case manager attempted to prevent the student from
7 punching the other student. The student was not
8 attending classes.
9 Do you agree with that?
10 A. Yes.
11 Q. District staff indicated that the student would attend
12 school, but would not attend classes.
13 Do you agree with that?
14 A. Yes.
15 Q. The student would hide elsewhere in the building instead
16 of attending scheduled classes.
17 Do you agree with that?
18 A. Yes.
19 Q. The public school building was large enough and had
20 enough space for students to be present in the school
21 building, but not present in the classes.
22 Do you --
23 A. Yes.
24 Q. The future school was a smaller building with a handful
25 of classrooms. The student would not have the

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1 A. Yes.
 2 Q. Where else?
 3 A. Steak and Shake. Anywhere. You can't get a job without
 4 a school permit if you are under 18 as well. You can't
 5 get a job if you do not know how to read. Because you
 6 got to draw a school permit to even get a job under 18.
 7 Q. Can Ka B read at all?
 8 A. She can read a little bit teaching herself and me
 9 reading to her, you know and learning just from social
 10 media.
 11 Q. What level do you think she can read?
 12 A. She probably about like I will say now about maybe a
 13 sixth grade reading level. Maybe.
 14 Q. Does she have any plans to go back to school?
 15 A. Every day my daughter has plans to go to school, but she
 16 is embarrassed because she don't know how to do a lot of
 17 things. So she feel like going back in school is just,
 18 I am going to horseplay, I am going to misbehave because
 19 I don't know how to do none of the things in the
 20 classroom.
 21 So yes, she want to go to school all the time.
 22 And the only reason why she want to go to school is when
 23 she go try to do worldly things, they shoot you back to
 24 school. Do you have a high school diploma. Are you
 25 registered in school. And she have to be turned around

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1 every time. Every door of opportunity is closed on her.
 2 Uh-huh (affirmative).
 3 Q. What have you done do try and encourage her to go back
 4 to school?
 5 A. Every day of my life. Every day since this happened I
 6 tell her life is not, you know, until you finish school,
 7 until you go back to school or get some type of
 8 learning, there is no way you can move forward.
 9 And every day it's a coaching. My daughter
 10 really wants to learn, but there is no motivation. She
 11 feel like KPS has treated her so bad that like she is an
 12 animal, and treat her so bad she has no interest in
 13 school. She don't feel like a kid anymore. She don't
 14 go to no games, no nothing. She don't feel like a kid
 15 because she didn't have a kid life.
 16 Q. Besides asking her to go to school is there any other
 17 specific steps that you have taken as her mom to
 18 convince her --
 19 A. Yes, signing her up, going sign her back up every time
 20 she mention it. She is going to fail to go.
 21 Q. How many times have you re-signed her back up?
 22 A. This my third time. I just signed her up for Covenant
 23 downtown Kalamazoo.
 24 Q. When was that?
 25 A. This was just like maybe a month ago. They only can try

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1 to go to school to have a IEP special needs. And it's
 2 not that many schools, not that many options.
 3 Q. And before Covenant last month where else did you try
 4 and sign her up?
 5 A. I think we tried some Michigan online school and they
 6 didn't have IEP services, so we couldn't do that.
 7 Q. Do you remember when that was?
 8 A. That was like a few months before that. I don't know
 9 accurate dates.
 10 Q. Any other attempts to register her in any school?
 11 A. No.
 12 Q. What does Ka B do all day if she doesn't have a job --
 13 A. Nothing. Nothing.
 14 Q. -- and she doesn't go to --
 15 A. Nothing.
 16 Q. -- school?
 17 A. Nothing at all. Ever since school has been out Ka B has
 18 been in a mass of trouble. Ever since Ka B has not been
 19 in school Ka B has been in so much trouble in and out of
 20 jail, I mean juvenile. She's been in a major car
 21 accident with four other students last year January 5th
 22 and was hospitalized for months.
 23 After that, every day she is in and out the
 24 house misbehaving. Then she get in her moments where
 25 she want to learn, she want to sit in the house. It

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1 not taking her medicine?
 2 A. I have no authority. So whatever they don't do they
 3 just don't do it. Do whatever they say they any ain't
 4 going to do they ain't going to do it. I can't make
 5 them do anything. Not nothing. Not a thing.
 6 Q. I am going to go through Ka B's and ask you how many
 7 times you think she was suspended and some of these
 8 grades.
 9 How many times do you think that she was
 10 suspended in sixth grade?
 11 A. Half a year.
 12 Q. How about seventh grade?
 13 A. Half a year.
 14 Q. Eighth grade?
 15 A. All the time.
 16 Q. Any specific amount of time?
 17 A. Most of the year. I mean, they never went to school
 18 like that. They will go to school after a week, get
 19 back suspended. No grade. No grade.
 20 Like I told you guys, she never really
 21 switched a grade. Once she got in high school it was
 22 just that. It said ninth grade on the thing and it was
 23 time to be in tenth grade, still say ninth grade. When
 24 it was time to be in eleventh grade, still say ninth
 25 grade. They in twelfth now, it still say ninth grade.

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1 She never left a grade. She haven't been back to school
2 since Norrix ninth grade. Period.
3 Q. How much time do you think she was suspended in ninth
4 grade?
5 A. All the ninth grade.
6 MS. HALLORAN: Why don't we take a ten-minute
7 break here?
8 (Recess taken from 1:40 p.m.
9 to 1:55 p.m.)
10 MS. HALLORAN: Back on the record.
11 BY MS. HALLORAN:
12 Q. Miss Bush, to your knowledge does Ka B consume alcohol?
13 A. Not that I know of.
14 Q. How about any drugs?
15 MS. ABDNOUR: Object as to relevance.
16 THE WITNESS: No.
17 BY MS. HALLORAN:
18 Q. So to your knowledge she doesn't take anything that's
19 not prescribed to her?
20 A. No.
21 Q. No other recreational drugs that you know of?
22 A. Not that I know.
23 Q. Has Ka B ever physically assaulted you?
24 MS. ABDNOUR: Object as to relevance again.
25 THE WITNESS: No.